

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMES McWHIRT,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:06-CV-974-FRB
)	
JOGARI ZERRUSEN, et al.,)	
)	
Defendants.)	

ORDER AND MEMORANDUM

This matter is before the Court on applicant’s motion to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 [Doc. #1]. Applicant filed the instant motion while he was a prisoner confined at the Moberly Correctional Center (MCC); however, he did not submit a prison account statement as required by 28 U.S.C. § 1915(a)(2). Applicant subsequently advised the Clerk of Court that he was no longer in custody, and that he was residing in Vandalia, Missouri. Under these circumstances, the Court will grant applicant twenty days in which to submit a “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA 23,” as set forth below.

In accordance with the foregoing,

IT IS HEREBY ORDERED that the Clerk of Court shall provide applicant with the court forms entitled “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA 23.”

IT IS FURTHER ORDERED that applicant shall have twenty (20) days from the date of this Order to pay the statutory filing fee of \$250.00, or to submit a fully completed and signed “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA 23.”

IT IS FURTHER ORDERED that if, within twenty (20) days from the date of this Order, applicant fails to pay the filing fee or fails to submit a fully completed and signed “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA 23,” the case shall be dismissed, without prejudice.

IT IS FURTHER ORDERED that if applicant timely submits a “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA 23,” the Clerk shall cause this case to be resubmitted to the Court for review under 28 U.S.C. § 1915.¹

Dated this 17th day of October, 2006.



UNITED STATES MAGISTRATE JUDGE

¹If applicant pays the filing fee, he will be responsible for serving the summons and complaint upon the defendants. See Fed. R. Civ. P. 4(d). Service must be made within 120 days of the filing of the complaint (in the instant case, within 120 days of the payment of the filing fee). See Fed. R. Civ. P. 4(m).